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DOL No. 18-00543

A.S., AN INFANT BY HER GUARDIANS AD LITEM, AMY SMITH AND MONICA SMITH,	:	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY VICINAGE OF NEWARK
Plaintiffs,	:	HON. _____, U.S.D.J.
v.	:	CIVIL ACTION NO. _____
QUATREL DI'VANTE MILLER, STATE OF NEW JERSEY DIVISION OF CHILD PROTECTION AND PERMANENCY, AND STATE OF NEW JERSEY DEPARTMENT OF CHILDREN AND FAMILIES,	:	NOTICE OF REMOVAL
Defendants.	:	

**TO THE CHIEF JUDGE AND JUDGES OF THE UNITED STATES DISTRICT  
COURT FOR THE DISTRICT OF NEW JERSEY:**

This Notice of Removal having been opened to the Court by  
GURBIR S. GREWAL, ATTORNEY GENERAL OF NEW JERSEY, by Deputy  
Attorney General Ashley L. Costello appearing, on behalf of  
Defendants State of New Jersey, Division of Child Protection and  
Permanency and State of New Jersey, Department of Children and

Families, ("State Defendants"), in accordance with the provision of 28 U.S.C. § 1446 respectfully show that:

1. State Defendants are named as defendants in a civil action brought in the Superior Court of New Jersey, Law Division Morris County, entitled: A.S., et al. v. Quatrel Di'Vante Miller, et al., bearing Morris County Docket Number MRS-L-0665-19. (See Exhibit A).

2. According to Morris County Superior Court records, Plaintiffs' Complaint in this matter was filed on March 27, 2019. See Id.

3. The United States District Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331.

4. This action is removable to the District Court pursuant to 28 U.S.C. § 1441(a).

5. On August 7, 2019, State Defendants were served with process in this matter. (See Exhibit B).

6. Plaintiffs' Complaint alleges a violation of Plaintiff A.S.'s civil rights under 42 U.S.C. § 1983.

7. State Defendants now file the within Notice of Removal pursuant to 28 U.S.C. § 1331 on the basis of federal question jurisdiction.

8. As State Defendants were served with process on August 7, 2019, this Notice of Removal is timely filed, pursuant to 28 U.S.C. § 1446(b)(1) and (3), allowing State Defendants to remove,

as the thirty-day time period for removal does not expire until September 6, 2019. See 28 U.S.C. § 1446(b); see also Murphy Bros. v. Michetti Pipe Stringing, 526 U.S. 344, 347 (1999).

9. Exhibits A through D attached hereto constitutes the only documents received by State Defendants in this action.

10. Insofar as the State Defendants can determine, Co-Defendant Quatrel Di'Vante Miller has not been served with legal process in this matter, as no appearance has been entered for Co-Defendant Miller in Morris County Superior Court and no proof of service has been filed by Plaintiff to indicate that service was effectuated in accordance with N.J. Ct. R. 4:4-2, 4:4-3, 4:4-4. See Am. Asset Fin., LLC v. Corea Firm, 821 F. Supp. 2d 698, 699 (D.N.J. 2011) (holding "all defendants must join in a notice of removal in order for removal to be permissible. Remand is appropriate where one or more defendants do not join in removal. But the rule of unanimity does not apply: (1) when the nonjoining defendant is a nominal party; (2) when the defendant has been fraudulently joined; or (3) when a defendant has not been served when the removing defendants filed their notice of removal.")).

WHEREFORE, State Defendants respectfully request that the action now pending in the Superior Court of New Jersey, Law Division Morris County, bearing Morris County Docket No. MRS-L-0665-19, entitled: A.S., et al. v. Quatrel Di'Vante Miller, et al., be removed to this Court.

GURBIR S. GREWAL  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Ashley L. Costello  
Ashley L. Costello (107192015)  
Brian W. Hunkins (017931982)  
Deputy Attorney General

DATED: August 29, 2019